

PRESIDING OFFICER'S
RULING NO. N2012-1/43

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Mail Processing Network
Rationalization Service Changes, 2012

Docket No. N2012-1

PRESIDING OFFICER'S RULING GRANTING
AMERICAN POSTAL WORKERS UNION, AFL-CIO MOTION TO COMPEL

(Issued April 11, 2012)

On March 9, 2012, the American Postal Workers Union, AFL-CIO (APWU) filed a motion to compel a more responsive answer to interrogatory APWU/USPS-T5-6(b).¹ The Motion is granted.

Background. APWU filed interrogatory APWU/USPS-T5-6 directed to Postal Service witness Bratta on January 27, 2012.² The subject of the Motion is question 6(b) of this interrogatory, which seeks the disposition of buildings and equipment for recently closed P&DCs.³

APWU/USPS-T5-6. Please see your response to APWU/USPS-T4-9, redirected to you from USPS Witness Neri.

a) Please list each PD&C that has closed since 2008.

¹ American Postal Workers Union, AFL-CIO, Motion to Compel a More Responsive Answer to APWU/USPS-T5-6(b), March 9, 2012 (Motion).

² Interrogatories of the American Postal Workers Union, AFL-CIO to USPS Witness Dominic L. Bratta (APWU/USPS-T5-6), January 27, 2012.

³ Although this Ruling sometimes uses the term "building" interchangeably with P&DC, the potential that more than one building is located within a P&DC is recognized.

- b) For each facility identified in subpart a) describe what happened to the excess equipment and building in each case.
- c) Where in the AMP analysis or PIRs does it show what will happen (or what has happened) to the excess equipment?
- d) How is the lost value of excess equipment that is stored, disposed of, or sold for less than its value accounted for in the AMP study or PIR?

Witness Bratta redirected questions 6(a), (c), and (d) to Postal Service witness Neri. Witness Bratta then answered question 6(b) by referring to an answer he previously provided to interrogatory APWU/USPS-T4-9(c-d).⁴

(b-c) For excess equipment or equipment from P&DCs that have closed since 2008, the Postal Service has multiple options - relocation, disposal, modification, storage, and/or sale. The Postal Service determines which option(s) to apply to an individual piece of equipment based on equipment life, potential utilization, operational needs, equipment condition, and Postal Service mandates.

(d) The Postal Service selected from several options, including sale, lease termination, maintenance for storage or other operations, lease, or vacancy.⁵

Motion. APWU states that it first sought specific information concerning the disposition of buildings and equipment at P&DCs closed since 2008 when it propounded interrogatory APWU/USPS-T4-9(b) to witness Neri. Witness Neri redirected the interrogatory to witness Bratta, who provided a response. APWU contends that interrogatory APWU/USPS-T4-9(b) clearly seeks what happened to buildings and equipment at each P&DC that has closed since 2008. Instead, witness Bratta

⁴ Response of United States Postal Service Witness Bratta to American Postal Workers Union, AFL-CIO Interrogatory (APWU/USPS-T5-6(b), March 6, 2012.

⁵ Response of United States Postal Service Witness Bratta to American Postal Workers Union Interrogatory Redirected From Witness Neri to Witness Bratta (APWU/USPS-T4-9), January 12, 2012.

responded to this interrogatory by providing a general listing of the options available to the Postal Service for disposition of buildings and equipment.

APWU states it attempted to obtain specific information by posing interrogatory APWU/USPS-T5-6 directly to witness Bratta. Witness Bratta merely referred to his answer to interrogatory APWU/USPS-T4-9(c-d) in answering the follow-up interrogatory APWU/USPS-T5-6(b). Because APWU only received a general response providing options for disposition of buildings and equipment, instead of specific actions that were undertaken, it contends the Postal Service has failed to provide a responsive answer to interrogatory APWU/USPS-T5-6(b).

To demonstrate the relevance of the question, APWU argues that the disposition of buildings and equipment necessarily incurs a cost or may generate revenue. Motion at 4. APWU contends “What has happened to past P&DCs and the choices the Postal Service made and resulting costs incurred or revenue created has bearing on what may happen to the equipment and buildings at the facilities at issue in this case”. *Id.* APWU asserts this is relevant to understanding what to expect as a result of the initiative in the instant docket (Docket No. N2012-1).

APWU further argues that providing a response should not be unduly burdensome. APWU notes that the interrogatory is limited to 17 buildings, and asserts that the Postal Service should have this information readily available. *Id.*

Answer to Motion. On March 13, 2012, the Postal Service filed an answer in opposition to the Motion.⁶ The Postal Service contends the answer it provided is responsive because it explains what happened to the buildings and equipment. The Postal Service states the “equipment has been relocated, disposed, modified, stored, or sold; and buildings have been sold, maintained for storage or other operations, leased, vacated, or has their lease terminated.” *Id.* at 3. It further argues that knowing the

⁶ United States Postal Service Answer in Opposition to American Postal Workers Union, AFL-CIO, Motion to Compel a More Responsive Answer to APWU/USPS-T5-6(b), March 13, 2012 (Postal Service Answer).

specific disposition of the buildings and equipment does not provide the information APWU would need to evaluate the associated costs or revenue for that equipment.

The Postal Service then argues that the information APWU seeks is not relevant because the issue before the Commission involves the change in service standards, and not the cost of moving equipment from a disabled unit. *Id.* at 2.

Regardless, the Postal Service states that it does not maintain a centralized database that tracks equipment associated with closed buildings. Thus, it would be burdensome to compile the information. *Id.* at 4.

Postal Service supplemental response to the interrogatory. On March 16, 2012, witness Bratta provided a supplemental response to interrogatory APWU/USPS-T5-6(b). He addresses the disposition of the buildings part of question 6(b) by listing each of the 17 buildings and indicating whether the building has been sold, what the building is now being used for, or whether no decision on disposition has been made at this time.⁷

APWU reply to Postal Service Answer. APWU was granted permission to file a reply to the Postal Service Answer.⁸ APWU argues that the Postal Service justifies the current network rationalization initiative in part on potential cost savings from reducing its inventory of buildings and equipment. APWU Reply at 3. To test the underlying cost savings assumptions, APWU seeks information about what happened in the past to excess equipment when the Postal Service closed several P&DCs. APWU contends that the inability to shed costs from the closure of 17 buildings would call into question what would happen when over 200 buildings are closed. *Id.* at 4.

APWU addresses the Postal Service burden argument. It notes the testimony of Postal Service witness Bratta concerning the Maintenance Activity Reporting

⁷ Supplemental Response of United States Postal Service Witness Bratta to American Postal Workers Union, AFL-CIO Interrogatory (APWU/USPS-T5-6(b), March 16, 2012 (Postal Service Supplemental Answer).

⁸ American Postal Workers Union, AFL-CIO, Reply to USPS Answer in Opposition to Motion to Compel a More Responsive Answer to APWU/USPS-T5-6(b), April 4, 2012 (APWU Reply). See Tr. 4/974-5 (Presiding Officer directing APWU to file a written reply).

Scheduling System (eMARS). *Id.* at 5. Witness Bratta stated that eMARS is a centralized database containing information on all mail processing equipment, including location, which is accessible by Postal Service headquarters personnel. See Tr. 4/970-71. Thus, APWU contends that the information may be readily available. APWU asserts that even if an up-to-date accounting of equipment is not readily available, the accounting for equipment from 17 buildings should not be overly burdensome. APWU Reply at 5.

Discussion. The Motion seeks a more responsive answer to interrogatory APWU/USPS-T5-6(b) concerning the disposition of 17 Postal Service buildings and the associated equipment within those buildings. The Postal Service Supplemental Answer appears to be responsive to the question concerning the status of the 17 Postal Service buildings. Therefore, the Motion is moot concerning the disposition of buildings.

At least three issues have been raised concerning a response to the disposition of equipment associated with the 17 buildings: whether a responsive answer has been provided; the relevance of the interrogatory; and the burden imposed on the Postal Service in providing a response.

The interrogatory asks the Postal Service to “describe what happened to the excess equipment.” The Postal Service asserts it provided a responsive answer when stating “the Postal Service has multiple options” for disposition of the equipment, and then names several options. The interrogatory asks for the specific disposition of equipment. However, the Postal Service has only provided options. The Postal Service has not provided a responsive answer.

The Postal Service contends that the disposition of equipment is not relevant to the instant proceeding, nor will a response to the interrogatory provide the associated cost information sought by APWU. APWU argues that the disposition of equipment and the associated costs incurred or revenue generated through past closings may shed light on cost and revenue assumptions in this docket.

Commission rules “allow discovery reasonably calculated to lead to admissible evidence during a noticed proceeding.” See 39 CFR 3001.25(a). The Postal Service’s

recent practices of managing equipment in facilities that have been recently closed is potentially relevant to what might happen to equipment when it plans on closing more than 200 buildings. Prior experience in managing the disposition of equipment may be as informative as a precise quantification of the associated costs or revenues. For example, the Postal Service not being able to dispose of equipment from a limited number of recent closures might indicate it may have difficulty disposing of equipment from an ever greater number of closures. A demonstration that equipment has not been successfully removed from inventory may highlight the need for the Postal Service to more fully focus on this matter so that it can take advantage of potential cost savings or increases in revenue. The interrogatory appears reasonably calculated to lead to admissible evidence.

The Postal Service asserts it would be burdensome to account for the disposition of the equipment “[b]ecause the Postal Service does not maintain a centralized database that track the equipment associated with each closed mail processing facility”. Postal Service Answer at 4. However, witness Bratta testified to the existence of eMARS that might be useful for compiling the requested information. APWU also notes that the interrogatory seeks information on equipment from a limited number of buildings. Additionally, it would appear rational, from a business perspective, for a business to be able to account for all of its major processing equipment. The Postal Service has not provided a persuasive argument that it is overly burdensome to compile the information necessary to provide a responsive answer.

The Motion is granted. The Postal Service shall file a responsive answer to the interrogatory concerning the disposition of equipment by the close of business on April 18, 2012.

RULING

The American Postal Workers Union, AFL-CIO, Motion to Compel a More Responsive Answer to APWU/USPS-T5-6(b), filed March 9, 2012, is granted consistent with the body of this Ruling. The Postal Service shall file a responsive answer by April 18, 2012.

Ruth Y. Goldway
Presiding Officer